

THE LIEUTENANT GOVERNOR transmits to the House of Assembly, the copy of a despatch addressed to him by Lord Viscount Goderich, & he deems it necessary to acquaint the House of Assembly, that until the King's Instructions, transmitted by Earl Bathurst on the 31st of August 1826, were received in this colony, the nature of the provisions they recommended, and the intention to transmit instructions were equally unknown to the Lieutenant Governor.

The Lieutenant Governor desires further to acquaint the House of Assembly, that although when these instructions were received, it appeared to him, as it did to both branches of the Legislature, that the measure which His Majesty recommended was well calculated to afford protection to those for whose relief it was intended, the Lieutenant Governor was not so unmindful of the efforts made to excite groundless alarm among the inhabitants of this happy and peaceful colony as ever to have conveyed an assurance to His Majesty's Government, that either that measure, or any other the most indulgent that could be devised, might not, by industrious misrepresentations, be made the occasion of exciting a partial discontent.

Government House, }
23d January, 1828. }

DOWNING STREET,
10th JULY, 1827.

Sir,

His Majesty's Government have had under their consideration the two bills passed by the Legislative Council and Assembly of Upper Canada in the month of February last, and which were reserved by you for the signification of His Majesty's pleasure, intitled,

An act to provide for the Naturalization of such persons resident in this province at the period therein mentioned as may not now be entitled by Law to be regarded as natural born subjects.

An act to confirm British subjects in their titles to real estates in this province derived through aliens.

You are aware that a petition signed by a large number of persons resident in the province has been presented to the House of Commons objecting on various grounds to the confirmation of these bills by His Majesty.

The petitioners represent that the bills, which have been transmitted, do not really express the sense of the Legislative Body. The views of the House of Assembly of Lower Canada can of course however be collected only from the acts and recorded resolutions of the House itself, and His Majesty cannot attach any authority to the statement which has been made by others of the wishes and opinion of individual members of this body.—The petition however sufficiently establishes the fact that a numerous class of the inhabitants of the province are dissatisfied with the measures recommended by His Majesty's government in the year 1826, and subsequently adopted by the provincial Legislature.

I cannot too distinctly acknowledge that your Excellency and the Legislative Council and Assembly are not responsible for any misconception which may have been entertained upon this subject. The bills which you have transmitted are in general framed in conformity with the instructions which you received, or deviate from those instructions only on the side of indulgence towards the parties whom it was proposed to relieve. It rests with His Majesty's Government alone to vindicate the propriety of the measures which have been already taken, and of such alterations in them as I am now about to suggest.

It is fit however to observe, that before Lord Bathurst's instructions of the thirty first of August, 1826, were written, His Lordship had adopted every means in his power to ascertain whether the improvement which he then projected in the law would satisfy the inhabitants of Upper Canada; nor were there wanting sufficient grounds to justify the conclusion that all classes of society, in the province, would cordially acquiesce in them; if these expectations have been disappointed, the result is to be attributed to circumstances of which Lord Bathurst was unavoidably ignorant, and over which he could exercise no control.

His Majesty's decision upon the bills which you have transmitted will be suspended until it shall appear whether the Council and Assembly are disposed to pass other bills better adapted to produce general satisfaction throughout the province, and if any such bills should be received in this country, His Majesty in council will disallow those which are at present before him. I proceed to state the general principles which upon a mature consideration of the subject, it has appeared to His Majesty's Government desirable to embody in the Bill so to be passed.

All persons who have at any time received grants of land from the provincial government, or who have held any public office in the province, or who have at any time been admitted by the provincial government or its officers to take the oath of allegiance, or who had their settled place of abode in the province before the year 1820 and are still resident there, should be admitted to the privileges of English birth without any condition or qualification.

The children or more remote descendants of any persons who may now be dead, should be admitted to the same privileges, which their parents or ancestors, if living, could claim.

Any person claiming to exercise any privilege of a British subject who has not yet taken the oath of allegiance should be required to take that oath, or if he be one of the persons whom the provincial law relieves from the obligation of taking oaths, should be required to make the corresponding affirmation.

Persons, not falling within any of the preceding descriptions, but who have at present their domicile in Upper Canada, having first resorted thither in, or subsequently to the year 1820, should, if such be their wish, be also admitted to the privileges of English birth, subject to the three following conditions—First, that before

they enjoy the privileges in question, they should have completed a residence of seven years. Secondly, that they should take the oath of allegiance, or make the corresponding affirmation. Thirdly, that their names should be registered in some public office, by some time to be fixed for that purpose, in order that it may be known what particular persons have availed themselves of the proposed indulgence.

It will be distinctly understood that the law should contain no provision whatever, respecting the renunciation of any allegiance or supposed allegiance to any foreign state. That question must be decided by the general law of nations, without being made the subject of any enactment, either remedial or declaratory.

The proposed bills must be entirely retrospective.—The terms upon which it may be proper to naturalize persons hereafter resorting to Upper Canada, or to any other of His Majesty's foreign possessions, will probably, at an early period, engage the distinct attention of His Majesty's Government. The Bills consequently will not interfere with the operations in future of the British Acts of Parliament for the naturalization of certain foreigners in His Majesty's plantations.—Neither should they have the effect of repealing certain Provincial Statutes respecting a particular class of Aliens, which were passed in the years 1816 and 1817.

It remains to advert to certain questions respecting the property of Aliens which may be affected by the proposed enactments.

There would be no objection to a provision declaring that lands acquired by any person, or by the ancestor of any person naturalized under the act, should not hereafter be claimed by His Majesty on the ground of any such person having been an alien.

It is possible that cases may exist in which the

title of private persons to land depends upon the foreign birth of some other persons.

In all such cases it would seem fit that the title in future should depend upon, and follow the actual possession of the property in past times.

No person naturalized under the proposed bills should hereafter be dispossessed of his lands, on the ground of his own or his ancestors' foreign birth. On the other hand no person who has been actually dispossessed on that ground should now have his title restored. It would be equitable that these rules should take effect from the day of May 1826, the date of the last act of parliament upon this subject.

It would be highly convenient, if such should be the pleasure of the Council and Assembly, to make the questions of property the subject of a distinct bill, since it is unnecessary to incur the question of naturalization with discussions which might impede, if they did not prevent, the success of that measure.

The inhabitants of Upper Canada, will, I trust, recognize in these instructions His Majesty's desire to promote the welfare of every class of society in the province, and the Legislative Council and Assembly will understand that His Majesty fully appreciates the industry and zeal for the public good, manifested by their compliance with the instructions which in the last year Lord Bathurst conveyed to your Excellency by His Majesty's command.

I have the honour to be

Sir,

Your most obedient humble servant,
(Signed) "GODERICH."

Lieutenant General

Sir P. Maitland, K. C. B. &c. &c. &c.

Certified, G. MILLER.

he
ti-
he
is
on
gn
us
ld
a-
-
a-
ld
to
a
er
ns
se

ot,
e-
o-
a-
y
e
h
h
h

1828 Maitland

MESSAGE

From His Excellency the Lieutenant Governor, to the House of Assembly, dated 2nd January, 1828; and copies of instructions from His Majesty's Principal Secretary of State, for the Colonies, transmitted to His Excellency Sir P. MAITLAND, K. C. B. &c. &c. on the subject of nativization.